

State of Washington REPORT OF EXAMINATION FOR WATER RIGHT APPLICATION

PRIORITY DATE
August 13, 2014

WATER RIGHT NUMBER
S3-30722

APPLICANT NAME AND ADDRESS
Terry and Nancy Borden
PO Box 128
Ione, WA 99139

Quantity Authorized for Diversion

| DIVERSION RATE | UNITS | ANNUAL QUANTITY (AF/YR) |
|----------------|-------|-------------------------|
| 0.02 | CFS | 1 |

Purpose

| PURPOSE | DIVERSION RATE | | ANNUAL QUANTITY (AF/YR) | | PERIOD OF USE (mm/dd) |
|---|----------------|-------|-------------------------|--------------|-----------------------|
| | ADDITIVE | UNITS | ADDITIVE | NON-ADDITIVE | |
| Domestic supply for 2 RV units (includes 1/2 acre irrigation) | 0.02 | CFS | 1 | | 01/01 – 12/31 |

| IRRIGATED ACRES | | PUBLIC WATER SYSTEM INFORMATION | |
|-----------------|--------------|---------------------------------|-------------|
| ADDITIVE | NON-ADDITIVE | WATER SYSTEM ID | CONNECTIONS |
| 1/2 | | | |

Source Limitations

| SOURCE FACILITY/DEVICE | DIVERSION RATE (CFS) | ANNUAL QUANTITY (AF/YR) | PERIOD OF USE (mm/dd) |
|------------------------|----------------------|-------------------------|-----------------------|
| PEND OREILLE RIVER | 0.02 | 1.0 | 01/01 – 12/31 |

Source Location

| COUNTY | WATERBODY | TRIBUTARY TO | WATER RESOURCE INVENTORY AREA |
|--------------|--------------------|----------------|-------------------------------|
| PEND OREILLE | PEND OREILLE RIVER | COLUMBIA RIVER | 62-PEND OREILLE |

| SOURCE FACILITY/DEVICE | PARCEL | TWP | RNG | SEC | QQ | LATITUDE | LONGITUDE |
|------------------------|--------------|-------|-------|-----|------------|------------|-------------|
| PEND OREILLE RIVER | 433717529007 | 37 N. | 43 E. | 17 | NE1/4SW1/4 | 48.71366°N | 117.40694°W |

Datum: WGS84

REPORT OF EXAMINATION

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

Parcel No. 433717529007

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

Lot 7 of Stillwater Tracts within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 17, T. 37 N., R. 43 E.W.M.

Proposed Works

$\frac{3}{4}$ horsepower submersible pump, pressurized system

Development Schedule

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---------------|-------------------|-----------------------|
| Begun | September 1, 2016 | September 1, 2017 |

Measurement of Water Use

| | |
|---|-------------------------------------|
| How often must water use be measured? | Monthly |
| How often must data be reported to Ecology? | Upon Request by Ecology |
| What volume should be reported? | Total Annual Volume |
| What rate should be reported? | Annual Peak Rate of Diversion (cfs) |

Provisions

Pend Oreille River Low Flow

All irrigation shall cease when the flow of the Pend Oreille River falls below 7700 cubic feet per second at U.S. Geological Survey (U.S.G.S.) gage #12395500, Pend Oreille River at Newport, located within Section 24, Township 56 N., Range 6 W.B.M.

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S3-30722, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

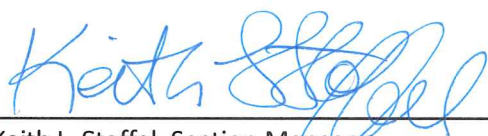
To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

| Street Addresses | Mailing Addresses |
|--|---|
| Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 | Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 |
| Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501 | Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903 |

Signed at Spokane, Washington, this 13th day of May, 2015.



Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

INVESTIGATOR'S REPORT

Application for Water Right - Borden
Water Right Control Number S3-30722
Gene Drury, Department of Ecology

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30722.

Table 1 Summary of Requested Water Right

| | |
|-----------------------------|--|
| Applicant Name: | Terry and Nancy Borden |
| Date of Application: | August 13, 2014 |
| Place of Use | Lot 7 of Stillwater Tracts, within the NW¼NW¼ of Sec. 17, T. 37 N., R. 43 E.W.M. |

| | | | |
|---------------|--------------------|---------------------|-----------------|
| County | Waterbody | Tributary To | WRIA |
| Pend Oreille | Pend Oreille River | Columbia River | 62-Pend Oreille |

| | | | | | |
|--|-------------|-------------|-----------------|---------------------|-------------------|
| Purpose | Rate | Unit | Ac-ft/yr | Begin Season | End Season |
| Domestic supply for 2 RV units (includes ½ acre irrigation) | 0.02 | CFS | 1.00 | 01/01 | 12/31 |
| TOTAL: | 0.02 | CFS | 1.00 | | |

| | | | | | | | |
|--------------------|---------------|------------|------------|------------|-----------|-----------------|------------------|
| Source Name | Parcel | Twp | Rng | Sec | QQ | Latitude | Longitude |
| PEND OREILLE RIVER | 433717529007 | 37 N. | 43 E. | 17 | NE¼SW¼ | 48.71366°N | 117.40694°W |

**CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section;
WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum: WGS84.**

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Newport Miner on October 29 and November 5, 2014.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;

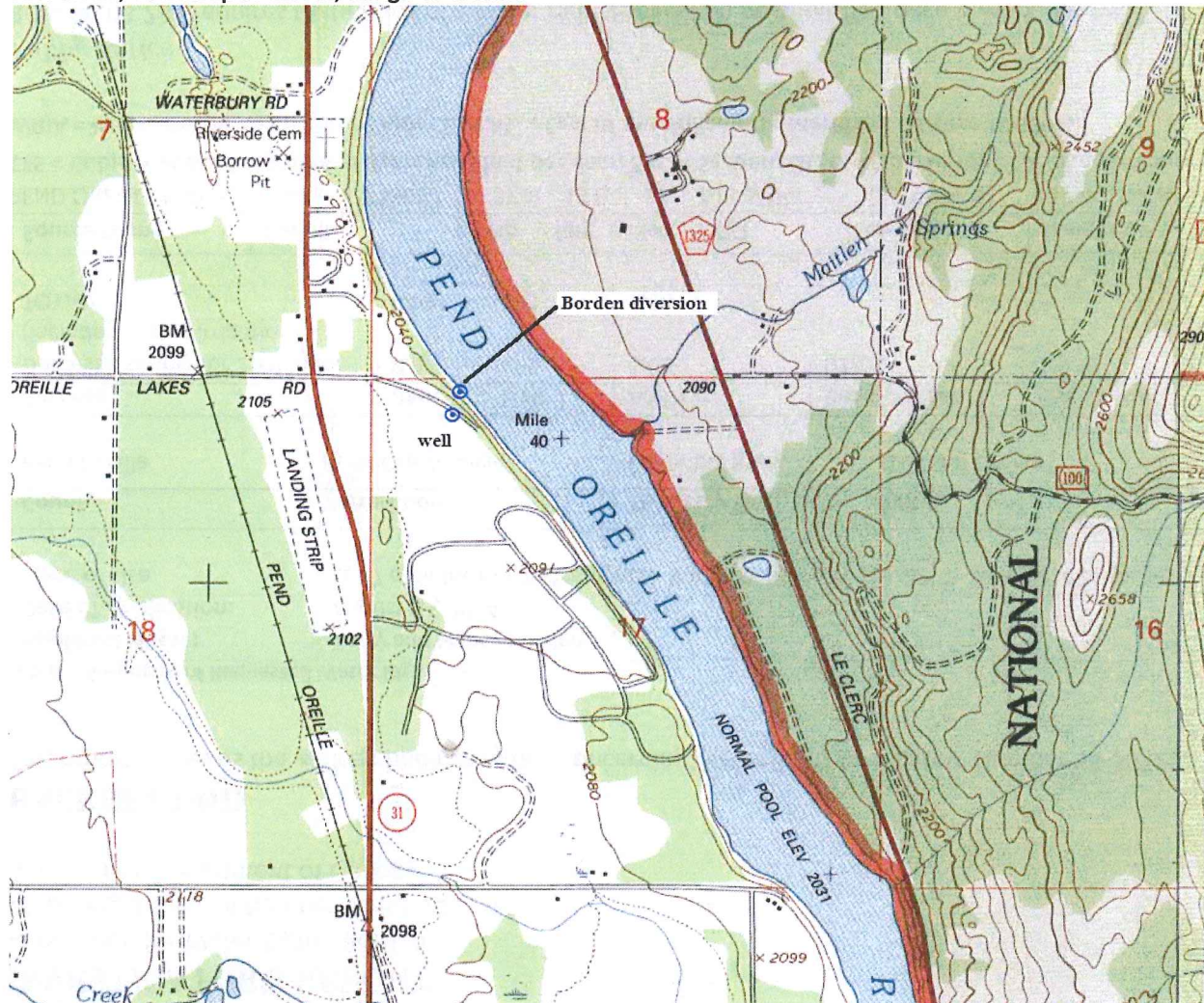
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

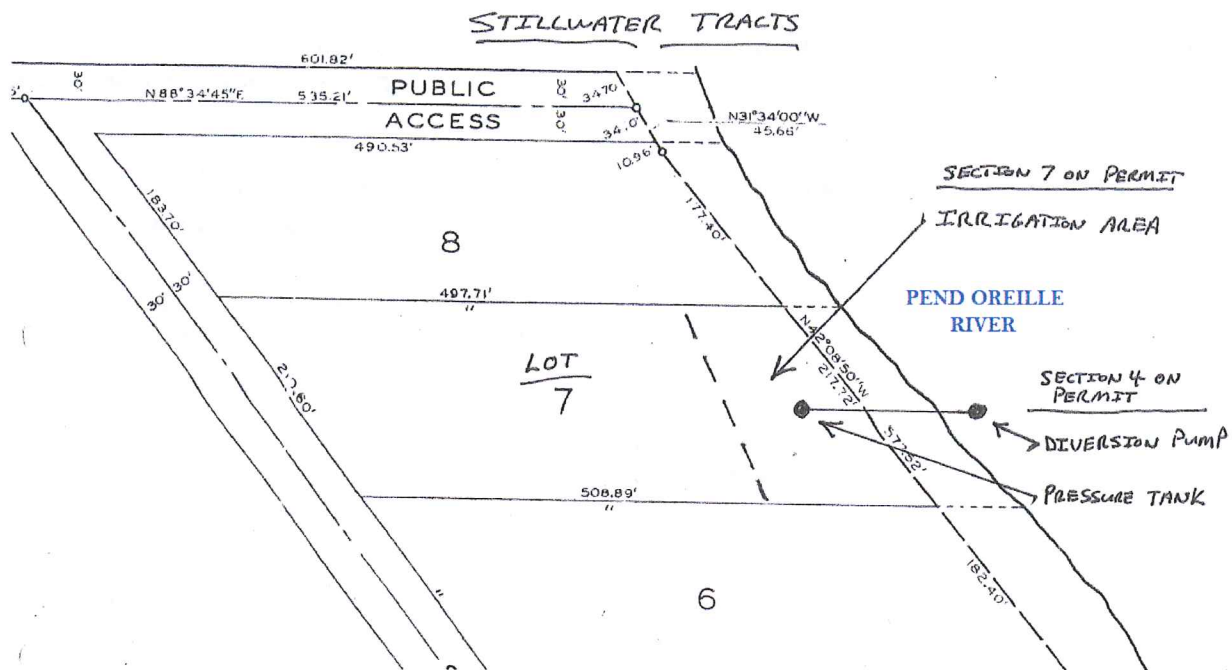
A site visit was conducted by Gene Drury on April 21, 2015 with Terry Borden. The project is located approximately five miles south of Lone, WA on the west side of the Pend Oreille River. The site address is 811 E. Joyner Road. It was noted that the project had been started.

Section 17, Township 37 North, Range 43 E.W.M.



USGS 7.5 Minute (Topographic Map) - "lone"

The applicant proposes to divert water from the Pend Oreille River using a $\frac{3}{4}$ horsepower submersible pump with a 42 gallon pressure tank. Water will be used seasonally for two Recreational vehicles (2 trailers) and irrigation of about $\frac{1}{2}$ acre of lawn. The point of diversion and place of use are both located on Lot 7 of Stillwater Tracts, within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 17, T. 37 N., R. 43 E.W.M. A well is located on the property but is not used for drinking water due to water quality issues. The applicant stated that the well was about 45 feet deep and produced about 5 gallons per minute. It is tagged with Ecology Unique Well ID #ADO-402. No well report was found.



Beneficial Use

Domestic supply and Irrigation are both beneficial uses of water.

Water Availability

An analysis of water availability must take into account not only the physical limitations on the source of supply, but the legal availability as well.

Hydrogeologic Analysis: The Department of Ecology has not closed the Pend Oreille River to further consumptive appropriations, however all diversions shall cease when the flow of the Pend Oreille River falls below 7700 cfs at U.S. Geological Survey (U.S.G.S.) gage #12395500. This low-flow is a recommendation from the Washington State Department of Fish and Wildlife (WDF&W) and applies to surface and ground water in hydraulic continuity with the Pend Oreille River since October 18, 1999.

Therefore, water is available for appropriation as long as irrigation ceases when the Pend Oreille River falls below the low flow recommendation from the Washington State Department of Fish and Wildlife.

Impairment Considerations

A review of Ecology records was conducted for existing water rights, permits, and claims on or near the applicants proposed project located within the NW¼NW¼ of Sec. 17, T. 37 N., R. 43 E.W.M. The search found no rights that would be impaired by the proposed Borden diversion, provided the recommendations of the minimum flows of the Pend Oreille River are satisfied.

Public Interest Considerations

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed appropriation. The approval of this application for this quantity and use will not be detrimental to the public interest.

Consideration of Protests and Comments

No protests were filed against this application.

Conclusions

Under Chapter 90.03.290 RCW, an application for permit may be approved if water is available for appropriation, and the proposed use would be a beneficial use, would not impair existing water rights, and would not be detrimental to the public welfare.

It is the conclusion of this examiner that public surface water, from the Pend Oreille River, is available for this project. This appropriation is considered a beneficial use and will not impair existing water rights or be detrimental to the public welfare.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

Quantities and Purpose of Use:

0.02 cubic foot per second; 1 acre-foot per year for domestic supply for 2 RV units (includes ½ acre irrigation).

Point of Diversion and Place of Use:

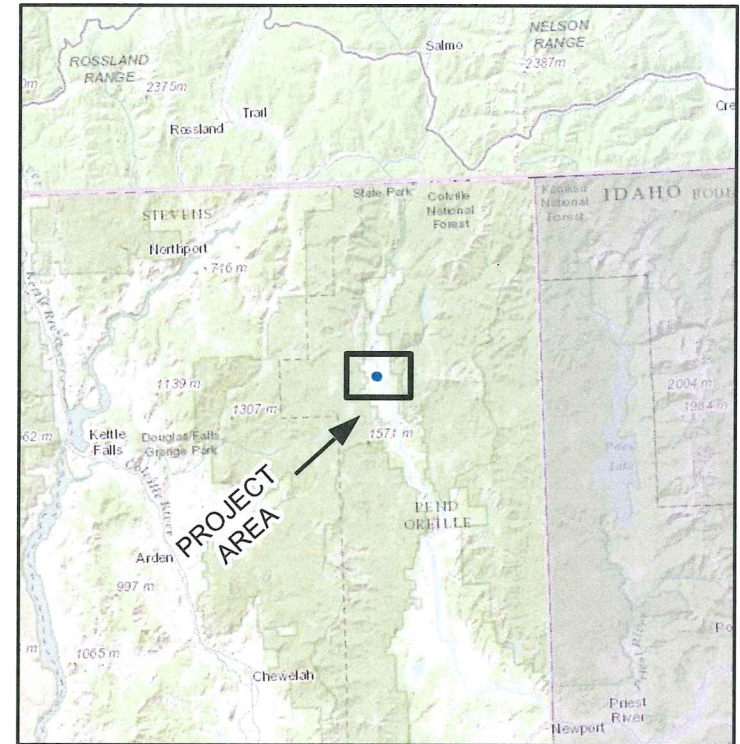
Lot 7 of Stillwater Tracts, within the NW¼NW¼ of Sec. 17, T. 37 N., R. 43 E.W.M. Parcel #433717529007


Gene Drury, Report Writer

5-13-15
Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Terry & Nancy Borden
S3-30722
T37N/R43E



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use

Townships

Sections

▲ Authorized Point of Diversion

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

0 165 330 660 Feet

Basemap - (NAIP 2013 1m color)



Map Date: 5/8/2015



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.